

PT 98-59

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**PIPE FITTERS
TRAINING FUND
LOCAL UNION
No. 597,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**Nos. 98-PT-0025
(95-16-1013)
(96-16-1198)**

**Real Estate Tax Exemption for
1995 and 1996 Assessment Years**

P.I.N: 17-22-320-016

Cook County Parcel

**Alan I. Marcus
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Mr. Joseph Butler of Crane and Norcross on behalf of the Pipe Fitters Training Fund Local Union No. 597.

SYNOPSIS: This proceeding raises the issue of whether real estate identified by Cook County Parcel Index Number 17-22-320-016 (hereinafter the "subject property" or the "subject parcel") should be exempt from 1995 and 1996 real estate taxes under 35 ILCS 200/15-35.¹ In relevant part, that statute provides as follows:

1. In People ex. rel. Bracher v. Salvation Army, 305 Ill. 545 (1922), the Illinois Supreme Court held that the issue of property tax exemption necessarily depends on the statutory provisions in force during the time for which the exemption is claimed. This applicant seeks exemption from 1995 and 1996 real estate taxes. Therefore, the applicable provisions are those found in the Property Tax Code, 35 ILCS 200/1 *et seq.*

All property donated by the United States for school purposes and all property of schools, not sold or leased or otherwise used with a view to profit, is exempt [from real estate taxation], whether owned by a resident or non- resident of this State or by a corporation incorporated in any state of the United States. Also exempt is:

(b) property of schools on which the schools are located and any other property of schools used by the schools exclusively for school purposes, including, but not limited to, student residence halls, dormitories and other housing facilities for students and their spouses and children, staff housing facilities, and school-owned and operated dormitory or residence halls occupied in whole or in part by students who belong to fraternities, sororities, or other campus organizations.

(c) property donated, granted, received or used for public school, college, theological seminary, university, or other educational purposes, whether held in trust or absolutely.

The controversy arises as follows:

The Pipe Fitters Training Fund for Local Union No. 597 the (hereinafter the "applicant") filed two separate Real Estate Tax Complaints with the Cook County Board of (Tax) Appeals (hereinafter the "Board"). The first such complaint, filed May 10, 1996, sought to exempt the subject property from 1995 real estate taxes under the then-existing version of Section 200/15-35. The second complaint, filed June 3, 1997, sought to exempt the subject property from 1996 real estate taxes under the same provision.

The Board reviewed both complaints and subsequently recommended to the Illinois Department of Revenue (hereinafter the "Department") that the 1995 exemption be denied. The Board further recommended "no action" on the 1996 Complaint because litigation was pending before the Department.

The Department accepted the Board's recommendation as to the 1995 exemption by issuing a determination dated January 7, 1997. Said determination found that the subject property was not in exempt ownership and not in exempt use. On December 18, 1997, the Department issued a determination denying the 1996 exemption complaint based on lack of exempt ownership and lack of exempt use.

Applicant filed timely requests for hearing as to both denials. Before the Department could convene appropriate hearings, the Appellate Court issued its decision in Chicago & Northeast Illinois District Council of Carpenters v. Illinois Department of Revenue, 293 Ill. App.3d 600 (1st Dist. 1997), *leave to appeal denied*, April 1, 1998 (hereinafter the "Carpenters"). After this decision became final, applicant's counsel, via written motion dated July 8, 1998, waived formal evidentiary hearings and requested to receive a decision based solely on the documentation it submitted prior to filing its requests for hearings. Following careful review of that documentation, and pursuant to the Appellate Court's decision in Carpenters, it is recommended that the subject property not be exempt from 1995 and 1996 real estate taxes.

FINDINGS OF FACT:

1. The Department's jurisdiction over these matters and its positions therein, namely that the subject parcel was not in exempt ownership and not in exempt use during 1995 and 1996, are established by the Department's determinations dated January 16, 1997 and December 18, 1997.
2. The applicant was formed pursuant to an Agreement and Declaration of Trust dated May 21, 1964. This Agreement, made between the Mechanical Contractors Chicago Association [sic] (hereinafter the "Association") and the Pipe Fitters' Association, Local 597 (hereinafter the "Union"), provides *inter alia* as that: (1)

the fund established by the trust agreement shall be used for the purpose of providing, maintaining and administering a program developing and furthering skills of journeymen and apprentices covered by collective bargaining agreements between the Association and the Union; (2) the fund shall be administered by a total of 6 trustees, with the Union and the Association being represented by three trustees apiece; and (3) the trust shall be funded by contributions from employers who belong to the Association.

3. The trust provides funding for a 5-year apprenticeship training program. Those seeking to enroll in this program must be at least 18 years of age and possess a high school diploma or GED certificate.
4. Apprentice-trainees admitted to this program receive classroom training in the following subjects: safety; tools; welding; math; drawing and blueprint reading; rigging; signaling; trade science; basic electricity; refrigeration; heating; air conditioning; pneumatic controls instrumentation; high pressure and process piping; and pipe bending.
5. Those enrolled in this program also receive on-the-job training, for which they are paid a starting wage of \$9.65 per hour. Most of this training runs concurrent with the apprentice's class work and includes: (1) learning to lay out work according to building plans and other specifications which pertain to the construction and installation of piping systems and supports; (2) construction, installation and maintenance of new or existing piping systems; and (3) construction of devices used in such systems and appurtances thereto.

6. The piping systems themselves may consist of drain lines for steam, condensation, water, air, gas and other chemicals. They may also be contained in chemical, hydraulic, lubrication, heating, refrigeration and other process piping [sic] systems.
7. These systems may be located in industrial, chemical, or power plants, hospitals, commercial establishments, residential buildings and wastewater treatment plants.
8. The subject property is located at 221 E. 21st Street, Chicago, IL 60616 and improved with a 1-story building that occupies 18,079 square feet. Applicant acquired its ownership interest therein via a trustee's deed dated August 10, 1994.
9. The subject property served as the locale for applicant's training program for apprentices and journeymen in the pipefitting trade throughout the 1995 and 1996 assessment years.

CONCLUSIONS OF LAW:

An examination of the documentation submitted by applicant establishes that it has not submitted evidence and argument sufficient to warrant exempting the subject parcel from 1995 and 1996 real estate taxes. Accordingly, under the reasoning given below, the Department's determination that said parcel does not satisfy the statutory exemption requirements set forth in 35 ILCS 200/15-35 should be affirmed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The power of the General Assembly granted by the Illinois Constitution operates as a limit on the power of the General Assembly to exempt property from taxation. The General Assembly may not broaden or enlarge the tax exemptions permitted by the Constitution or grant exemptions other than those authorized by the Constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). Furthermore, Article IX, Section 6 is not a self-executing provision. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limitations imposed by the Constitution. Locust Grove Cemetery of Philo, Illinois v. Rose, 16 Ill.2d 132 (1959). Moreover, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App.3d 497 (1st Dist. 1983).

Pursuant to its Constitutional mandate, the General Assembly enacted the Property Tax Code, 35 **ILCS** 200/1 *et seq.* The presently relevant portions of that statute are found in Section 200/15-35, which states in pertinent part that:

All property donated by the United States for school purposes and all property of schools, not sold or leased or otherwise used with a view to profit, is exempt [from real estate taxation], whether owned by a resident or non- resident of this State or by a corporation incorporated in any state of the United States. Also exempt is:

(b) property of schools on which the schools are located and any other property of schools used by the schools exclusively for school purposes, including, but not limited to, student residence halls, dormitories and other housing facilities for students and their spouses and children, staff housing facilities, and school-owned and operated dormitory or residence halls occupied in whole or in part by students who belong to fraternities, sororities, or other campus organizations.

(c) property donated, granted, received or used for public school, college, theological seminary, university, or other educational purposes, whether held in trust or absolutely.

Prior to the recent decision in Chicago & Northeast Illinois District Council of Carpenters v. Illinois Department of Revenue, 293 Ill. App.3d 600 (1st Dist. 1997), *leave to appeal denied*, April 1, 1998, our courts tended to hold that vocational training programs, such as the one operated by applicant, did not qualify for exemption under the applicable versions of Section 200/15-35.² See, Coyne Electrical School v. Paschen, 12 Ill.2d 387 (1957) (hereinafter "Coyne"); Board of Certified Safety Professionals of the Americas v. Johnson, 112 Ill. 2d 542 (1986); Winona School of Professional Photography v. Department of Revenue, 211 Ill. App.3d 565 (1st Dist. 1991). (hereinafter "Winona").

The Carpenters court, which denied exemption to a facility exclusively used for vocational training in the carpentry trade, took note of this trend by stating that "... the courts have been inhospitable towards granting a school exemption to schools whose curriculum did not consist of traditional subject matter common to accepted schools and institutions of learning, but was vocational or recreational in nature." Carpenters, *supra*, at 608. (Citing among other authorities, Board of Certified Safety Professionals, *supra*; Coyne, *supra* and Winona, *supra*). The Carpenters court then proceeded to quote extensively from Coyne, *supra*, wherein the court denied exemption to a vocational training program that provided technical courses of study in electricity, radio, radar and electronics.

In denying this exemption, the Coyne court found it significant that the appellant therein did not provide traditional courses in math, rhetoric, language, science or history, and did not lessen the burden of taxation by offering courses which the state would otherwise have to offer in

2. As noted in footnote 1, only the Property Tax Code, **35 ILCS 200/1-3 *et seq.***, governs disposition of the instant case. However, it should be noted that the Revenue Act of 1939, **35 ILCS 205/1 *et seq.***, contained statutes governing property tax exemptions for the 1992 and 1993 tax years. The exemption provisions for tax years prior to 1992 were contained in Ill. Rev. Stat. 1991 par. 500 *et seq.* These provisions, as well as their predecessors, were repealed when the Property Tax Code took effect January 1, 1994. See, **35 ILCS 200/32-20.**

a tax supported public school. Coyne, *supra*, at 392. As such, the Coyne appellant did not satisfy the relevant standards for exemption as a "school," which require applicant to provide a course of study that: (1) fits into the general scheme of education founded by the State and supported by public taxation; and, (2) substantially lessens what would otherwise be a governmental function and obligation. *Id.* at 292-293.

The Carpenters court, *supra*, used these same criteria as focal points for its analysis and reasoned that appellant's property did not qualify for exemption because:

First, under the first prong [of the test articulated in Coyne, *supra*] it is clear that the Council's carpentry program does not offer courses in traditional academic subjects, but, rather, offers solely vocational training, with the exception of some brief and otherwise limited instruction in math skills geared towards enhancing the student's carpentry skills. Secondly, under the second prong of [that same] test ..., the Council's carpentry training program does not provide a course of study which substantially lessens a governmental function or obligation. In that regard, although the state paid for operation of the Washburne Trade School [which offered a carpentry training program during tax years that preceded the one at issue in Carpenters] it was not required to fund or to offer such a program in the first instance. [Citations omitted]. Thus, despite the fact that the Council funds the costly apprentice program in an amount roughly equal to that which the state formerly paid to operate that program, that funding does not relieve the state of any burden which it carried to offer any such program. While the Board of Education and the state may well have saved money by discontinuing the carpentry program in question, they were not obligated to provide such a program even if no enterprise in the private sector had undertaken to provide one.

Carpenters, *supra* at 611.

The Carpenters court also looked to other specific factors that frequently determine conformity with the standards set forth in Coyne. These factors include whether: (1) the course of study is long or short term in duration; (2) classroom instruction is provided at the property in question; and (3) the entity seeking exemption awards degrees or confers diplomas. *See*, American College of Chest Physicians v. Department of Revenue, 202 Ill. App.3d 59 (1st Dist.

1990); Winona, *supra*; People ex rel. Thompson v. St. Francis Xavier Female Academy, 233 Ill. 26 (1908).

In applying these factors, the Carpenters court noted that:

... throughout the four-year program, students received only a few hours of classroom instruction in math skills during the pre-apprentice program, and thereafter received only five days of classroom instruction each quarter (or 20 days of such instruction each year), which consisted solely of carpentry-related topics. Rather than training students in traditional academic subjects in a classroom setting which lasted through the normal course of an academic year, students were primarily prepared to become carpenters through on-the-job training at locations other than [the property in question]. As such, they were required to join the International Brotherhood of Carpenters union, to pay union dues, and to get a job as a carpenter's apprentice with a union contractor where they were required to spend 1,200 hours each year. Furthermore, the program, which requires only two years of high school for admission thereto, does not lead to any high school or other type of degree or diploma, but, rather, leads to a certificate from the United States Department of Labor stating that the student had completed the program, and to a journeyman's certificate from the United Brotherhood of Carpenters.

Carpenters, *supra*, at 611-612.

From the documents submitted, there are no significant factual differences between applicant's program and the one held non-exempt in Carpenters. Applicant does not dispute that the analysis and conclusions contained in Carpenters is dispositive of all issues raised herein. Therefore, the Department's determinations that denied the subject property exemption from 1995 and 1996 real estate taxes under 35 ILCS 200/15-35 should be affirmed.

WHEREFORE, for all the above-stated reasons, it is my recommendation that real estate identified by Cook County Parcel Index Number 17-22-320-016 not be exempt from 1995 and 1996 real estate taxes.

September 1, 1998

Date

Alan I. Marcus
Administrative Law Judge